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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,208	05/04/2006	Peter Wiedenberg	2003P14585	5207
24131 7590 09/13/2010 LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480				
EXAMINER				
VIG, NARESH				
ART UNIT		PAPER NUMBER		
3629				
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09/13/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,208

Applicant(s)

WIEDENBERG, PETER

Examiner

NARESH VIG

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is in reference to communication received 18 June 2010. Addition of claims 11 and 12 is acknowledged. Claims 6 – 12 are pending for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 – 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

"Applicant recites the limitation "using the configuration data by the buyer to configure an automatic installation owned by the buyer". As currently claimed, it is not clear whether the claimed invention is directed to configuring a device using the downloaded configuration data, or the claimed invention is directed to creating a configuration file by the buyer, or something else.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. US Patent 7,334,227 in view of archived web pages of www.Download.Com.

Regarding claim 6, Kim teaches concept of system and method for an automation installation. Kim teaches concept and capability for:

creating configuration data by a provider, such configuration data being able to be used to configure an automation installation of the provider (Kim teaches downloading of a corresponding device driver. **It is obvious that the device driver is provided by a provider**) [Kim, Fig. 5 and disclosure associated with the Figure]; Download.Com teaches capability and concept for system and method for providing configuration data as digital content from a server to a purchaser upon the acquisition request from the purchaser [Download.Com, Page 7].

Therefore, at the time of invention, it would have been obvious to one of ordinary skill in the art to modify one of ordinary skill in the art to modify Kim by adopting teachings of Download.Com to expand the business model to sell software and

customized drivers online; apply a known technique to a known device (method, or product) ready for improvement to yield predictable results, known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art.

Kim in view of Download.Com teaches concept and capability configuring an automation installation by:

creating configuration data by a provider, such configuration data being able to be used to configure an automation installation of the provider [Kim, Fig. 5 and disclosure associated with the Figure; Download.Com page 5-7];

storing the configuration data in a storage location of a database by a the provider, the database rendering the configuration data available from the database in form of a copy for acquisition by a buyer [Kim, Fig. 5 and disclosure associated with the Figure; Download.Com page 5-7];

downloading a copy of the configuration data from the database by the buyer [Kim, Fig. 5 and disclosure associated with the Figure]; and

using the configuration data by the buyer to configure an automation installation owned by the buyer [Kim, Fig. 5 and disclosure associated with the Figure 7].

Regarding claim 7, Kim in view of Download.Com teaches concept and capability for:

attaching a description describing the configuration data to the configuration data by the provider before storing the configuration data on the database [Download.Com page 5-7]; and

wherein the step of storing the configuration data can further comprise storing in the database the description associated with the configuration data and rendering the description available for acquisition by the buyer [Download.Com page 5-7].

Regarding claim 8, Kim in view of Download.Com teaches concept and capability for transferring a given payment-value to the database by the buyer prior to acquiring the copy of the configuration data from the database (**paying for downloading of software is old and known Business Practice, also, online purchase and downloading of drivers is old and known business practice**) [Download.Com page 5-7];

Regarding claim 9, Kim in view of Download.Com teaches concept and capability for transferring a payment-given value to the provider for each acquired copy of the configuration data which the provider has stored on the database (**paying for downloading of software is old and known Business Practice, also, online purchase and downloading of drivers is old and known business practice**) [Download.Com page 5-7]

Regarding claim 10, Kim in view of Download.Com teaches concept and capability wherein the database is connected to the Internet and the provider and the buyer use internet connections to access the database [Kim, Fig. 5 and disclosure associated with the Figure; Download.Com page 5-7].

Regarding claim 11, Kim in view of Download.Com teaches concept and capability for adding functionalities to the configuration data and using these amended configuration data for configuration of the automation installation owned by the buyer (Download.Com teaches users can submit their software for marketing and selling, **also selling customized and proprietary device drivers is old and known Business Practice**) [Download.Com, page 21 – 24].

Regarding claim 12, Kim in view of Download.Com teaches concept and capability for:

storing the amended configuration data in the database by the buyer [Download.Com, page 5 – 24]; and

making the amended configuration data accessible to other users of the database [Download.Com, page 5 – 24].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

1. Philyaw US Patent 6,725,260

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NARESH VIG whose telephone number is (571)272-6810. The examiner can normally be reached on Mon-Thu 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jamisue Plucinski can be reached on (571) 272-6811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 12, 2010

/Naresh Vig/
Primary Examiner, Art Unit 3629